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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,280	08/22/2003	Jeffrey J. Bogatay JR.	CTTE 2 13500	9339
27885	7590	04/05/2006	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			BROWN, DREW J	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/646,280	Applicant(s) BOGATAY ET AL.	
	Examiner Drew J. Brown	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/3/06 (amendment).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 and 23-25 is/are allowed.
- 6) ☒ Claim(s) 14-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. Color photographs and color drawings are not accepted unless a petition filed under 37 CFR 1.84(a)(2) is granted. Any such petition must be accompanied by the appropriate fee set forth in 37 CFR 1.17(h), three sets of color drawings or color photographs, as appropriate, and, unless already present, an amendment to include the following language as the first paragraph of the brief description of the drawings section of the specification:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings and black and white photographs have been satisfied. See 37 CFR 1.84(b)(2).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 14-16 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weigel et al. (U.S. Pat. No. 3,099,326) in view of Schlaphoff (U.S. Pat. No. 2,696,272).

Weigel et al. discloses a metal frame comprising primary and secondary side rails (1) spaced from each other and joined at opposite ends by a rear plate (2). Weigel et al. discloses a plurality of mounting components (11, 12, & 13) adapted to mount an associated vehicle engine on the frame adjacent the front rail. Weigel et al. discloses that the first and second support bars (6) each having lower ends, are mounted to an upper edge of the primary side rails and extend over and forwardly of the frame, and that the first and second support bars at upper ends are connected to a head tube (7) to mount a front wheel assembly on the frame. Finally, Weigel et

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al. also discloses that the head tube includes a passage therethrough for receiving a fork tube (15) of the front wheel assembly.

Weigel et al. does not disclose that a front rail also joins the secondary side rails, wherein the engine is mounted adjacent the front rail between the primary side rails and rearwardly of the front rail, and that the support bars are also mounted to an upper edge of the front rail.

Schlaphoff, however, does disclose a front rail (17) that joins secondary side rails (14 and 15), wherein the engine (36) is mounted adjacent the front rail between the primary side rails and rearwardly of the front rail, and the support bars (19) are mounted to an upper edge of the front rail. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Weigel et al. in view of the teachings of Schlaphoff to include a front rail mounted in front of the engine in order to strengthen the forward end of the frame (column 2, lines 1-3).

Regarding claims 15 and 16, it would have been obvious matter of design choice to modify Weigel et al. by having the head tube tilt rearward from about 30°-40°, or more specifically 33°, from a horizontal axis, since the applicant has not disclosed that having the head tube tilt rearward at this specific angle or range of angles solves any stated problem or is for any purpose. It appears that the three-wheel vehicle would perform equally well with the head tube tilting at any of these angles.

Regarding claims 20-22, it would have been obvious matter of design choice to modify Weigel et al. by having the motor mount members extend inwardly from about 50°-60°, or more specifically 53°, from a vertical axis, since the applicant has not disclosed that having the motor mounts extending inwardly at this specific angle or range of angles solves any stated problem or is for any purpose. It appears that the three-wheel vehicle would perform equally well with motor mounts tilting at any of these angles, such as to compensate for a different sized motor.

4. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weigel et al. in view of Schlaphoff, and further in view of Fekete et al.

The combination of Weigel et al. and Schlaphoff discloses the claimed three-wheel vehicle as discussed above, but does not disclose that the frame includes a cross member mounted between a pair of angled side rails, or that the secondary side rails are positioned in a

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third plane parallel, but not coplanar to the primary side rails that are positioned in a second plane.

Fekete et al., however, does disclose a cross member (7) mounted between a pair of angled side rails (3 & 4).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Weigel et al. with the teachings of Fekete et al. to have a cross member in order to further strengthen the frame to protect the occupant during a collision and to also provide a support for a seat for the occupant.

Fekete et al. discloses that the secondary side rails are positioned in a third plane and the primary side rails in a second plane, where the planes are parallel but not coplanar to each other. For example, the plane containing cross member (8) is parallel to the plane containing cross member (6), but they are not coplanar.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Weigel et al. with the teachings of by Fekete et al. to have the secondary and primary side rails be parallel but not coplanar to each other in order to accommodate for a larger wheels in the rear of the vehicle. They should be parallel so the seat is parallel to the primary side rails and also to the ground. This is more comfortable for the occupant and also safer because it provides a clear view of the direction of travel.

Fekete et al. also discloses angled side rail extending upwardly and rearwardly (area between 7 & 8) with respect to the primary side rails, where the angled side rails connect the primary side rails to the secondary side rails.

Allowable Subject Matter

5. Claim 1-13 and 23-25 are allowed.

Response to Arguments

6. Applicant's arguments with respect to claim 14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew J. Brown whose telephone number is 571-272-1362. The examiner can normally be reached on Monday-Thursday from 8 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Drew J. Brown
Examiner
Art Unit 3616

DJB
4/3/06


DAVID R. DUNN
PRIMARY EXAMINER